

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No.4894 of 1998

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For Approval and Signature:

Hon'ble MR.JUSTICE H.L.GOKHALE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 : NO

PRAKASHCHANDRA KANTILAL SHAH

Versus

STATE OF GUJARAT

Appearance:

MR YN OZA for Petitioner
Ms. Katha Gajjar, ASSTT GOVERNMENT PLEADER for
Respondent No. 1
Mr. Prajapati for the intervener.

CORAM : MR.JUSTICE H.L.GOKHALE

Date of decision: 23/07/98

ORAL JUDGEMENT :

Heard Mr. Oza, learned advocate for the petitioner; Ms. Gajjar, learned AGP for respondents; and Mr. Prajapati, learned advocate for one, Mr. Sheetal Das Premchand Thakker and another as interveners.

2. Rule. Ms. Gajjar, learned AGP waives service of the rule on behalf of the respondents.

3. The petitioner has been issued a licence for storage and sale of kerosene at Dhanera, District Banaskantha. He was issued a notice dated 5.2.1998 by the Collector, asking him to produce evidence within five days with respect to his authority to occupy the concerned land on which the depot is situated. On the other hand, on the same day, the District Supply Officer suspended the petitioner's licence on the ground that he has not produced any such authority permitting him to occupy the concerned land. Subsequently, on 10.3.1998, in appeal, the Collector has confirmed the order of the District Supply Officer and cancelled the licence given to the petitioner. The order also mentions two more grounds including that the Board showing the prices of articles is not displayed at the place of business. That was also the ground mentioned in the notice dated 5.2.1998. Being aggrieved by this cancellation a revision was preferred to the State Government and by order dated 25.3.1998 the revision was admitted and stay was granted for one month. Subsequently, the stay was extended by a further communication dated 24.4.1998. The petitioner has thereafter received a further communication dated 14.5.1998, which informs him that the stay is vacated. It is so vacated as stated in that letter after looking into the papers from the office of the Collector, Banaskantha. Being aggrieved by this order the present petition is filed.

4. Mr. Oza, learned advocate for the petitioner submits that whatever may be the irregularities in the petitioner's occupying the concerned plot of land, which the petitioner does not admit; the petitioner having been granted stay by the revisional authority, it has come to be vacated without hearing him. Ms. Gajjar, learned AGP for the State has defended the order saying that in the circumstances of the case the order was justified. Mr. Prajapati appearing for the intervener has submitted that his clients are allotted this very plot of land and the occupation thereof by the petitioner is illegal.

5. Mr. Oza, learned advocate submits that some further steps were taken by the petitioner with respect to allotment of land to the aforesaid third party. That is a different matter. As far as the present revision filed by the petitioner against cancellation of his licence is concerned, when the revisional authority has granted stay once and extended thereafter, there is no reason why it should have been vacated and that too without hearing the petitioner. Obviously the order is in violation of principles of natural justice and is

required to be interfered with. In the circumstances, the order passed by the revisional authority dated 14.5.1998 will have to be quashed and accordingly it is quashed and set aside. The revisional proceeding is still pending. The interim stay granted by the revisional authority earlier on 25.3.1998 will stand restored and it will run until further orders are passed by the revisional authority. The revisional authority will hear the petitioner and after hearing it will be open to the revisional authority to pass appropriate order including vacating the interim relief granted earlier, if it deemed fit. That order, however, will have to be passed only after hearing the petitioner and giving reasons. The respondent authorities are expected to take consequential steps as a result of this order.

6. The petition is disposed of with the above observations. Rule is made absolute. No order as to costs. Direct service is permitted.

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